

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Michael Bergeisen, General Counsel  
Kenneth L. Kann, Managing Attorney  
Romunda Price, Administrative Coordinator  
Office of the General Counsel, 415-865-7661

DATE: March 24, 2005

SUBJECT: Amendment of Division VII of the Appendix to the California Rules of Court (Informational)

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Issue Statement

Civil Code section 1714.1(c) requires the Judicial Council to compute, adjust, and publish every two years the liability limit of a parent or guardian for the willful misconduct of a minor. The Judicial Council has authorized the Administrative Director of the Courts to make the adjustment.

Action Taken

On March 22, 2005, the Administrative Director of the Courts adjusted the liability limit as mandated by Civil Code section 1714.1(c) and as authorized by the Judicial Council. The adjusted liability limit is set forth in the California Rules of Court, Division VII of the Appendix. Staff has posted the amended Division VII on the California Courts Web site and is sending the amendment out for publication in the advance sheets of the California Official Reports.

This report is for the Judicial Council's information only. A copy of amended Division VII of the Appendix to the California Rules of Court, with the adjusted liability limit, is attached as Exhibit A.

Rationale for Action Taken

Civil Code section 1714.1(a) imputes liability, for any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of

another, to the parent or guardian having custody and control of the minor. (See Exhibit B.) Under subdivision (b), a parent or guardian having custody and control of a minor is liable for any act of willful misconduct of the minor that results in the defacement of property of another with paint or a similar substance. Under either subdivision (a) or (b), the joint or several liability of the parent or guardian having custody or control shall not exceed \$25,000 for each tort of the minor, *except as provided in subdivision (c)*.

Subdivision (c) requires the Judicial Council to compute, adjust, and publish the maximum amount of liability every two years, on or before January 1, 1997, and on or before January 1 of each odd numbered year thereafter.<sup>1</sup> By Circulating Order CO-97-07, the council authorized the Administrative Director of the Courts to make future adjustments. (A copy of the order is attached as Exhibit C.)

The statutory formula for determining each adjustment is published in Division VII of the Appendix to the California Rules of Court, which gives the adjustments and calculations a permanent place for reference. Based on that formula and based on the 195.4 annual average of the 2004 California Consumer Price Index, the adjusted liability limit as of January 1, 2005, is \$32,200.

Attached as Exhibit A is the amended Division VII to the California Rules of Court. It sets forth the 2005 calculation of the adjusted liability limit, including the formula used for the calculation.

#### Alternative Actions Considered

The adjustment is required by statute; no alternative actions were considered.

#### Comments from Interested Parties

None. This is a minor substantive change that is unlikely to create controversy, and it was not circulated for public comment.

#### Implementation Requirements and Costs

No special requirements or costs.

#### Attachments

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<sup>1</sup> This deadline was not met because the computation must be based on the Consumer Price Index for the previous year. Staff did not receive the computation from the California Department of Industrial Relations, Division of Labor Statistics until March 9. Staff is considering alternatives for ensuring future timely publication of the adjustment, including proposing an amendment to Civil Code section 1714.1(c), if that is appropriate.

## Exhibit A

Division VII of the Appendix to the California Rules of Court, effective January 1, 2005, is amended to read:

### APPENDIX

#### **Division VII. Liability Limits of a Parent or Guardian Having Custody and Control of a Minor for the Torts of A Minor (Civil Code, § 1714.1)**

Adopted by the Judicial Council of California effective January 1, 1997  
Amended effective January 1, 2005; previously amended January 1, 1999, and  
January 1, 2001 and January 1, 2003

1 - 2 \* \* \*

#### **3. [January 1, 2003 2005, calculation and adjustment].**

The joint and several liability of a parent or guardian having custody and control of a minor under Civil Code section 1714.1, subdivision (a) or (b), effective January 1, ~~2003~~ 2005 shall not exceed \$~~30,700~~ 32,200 for each tort. The calculation is as follows:

$$\$30,710 \text{ } \underline{32,244} = \left[ \frac{186.1 \text{ } \underline{195.4} - 151.5}{151.5} + 1 \right] \times 25,000$$

Under section 1714.1, subdivision (c), the adjusted limit is rounded to the nearest hundred dollars.

Approved:

  
William C. Vickrey

Date:

3-22-05

## Exhibit B

### California Codes Civil Code

**1714.1.** (a) Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of **civil** damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

Subject to the provisions of subdivision (c), the joint and several liability of the parent or guardian having custody and control of a minor under this subdivision shall not exceed twenty-five thousand dollars (\$25,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical, dental and hospital expenses incurred by the injured person, not to exceed twenty-five thousand dollars (\$25,000). The liability imposed by this section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor which results in the defacement of property of another with paint or a similar substance shall be imputed to the parent or guardian having custody and control of the minor for all purposes of **civil** damages, including court costs, and attorney's fees, to the prevailing party, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct, not to exceed twenty-five thousand dollars (\$25,000), except as provided in subdivision (c), for each tort of the minor.

(c) The amounts listed in subdivisions (a) and (b) shall be adjusted every two years by the Judicial Council to reflect any increases in the cost of living in California, as indicated by the annual average of the California Consumer Price Index. The Judicial Council shall round this adjusted amount up or down to the nearest hundred dollars. On or before January 1, 1997, and on or before January 1 of each odd-numbered year thereafter, the Judicial Council shall compute and publish the amounts listed in subdivisions (a) and (b), as adjusted according to this subdivision.

(d) The maximum liability imposed by this section is the maximum liability authorized under this section at the time that the act of willful misconduct by a minor was committed.

(e) Nothing in this section shall impose liability on an insurer for a loss caused by the willful act of the insured for purposes of Section 533 of the Insurance **Code**. An insurer shall not be liable for the conduct imputed to a parent or guardian by this section for any amount in excess of ten thousand dollars (\$10,000).

Exhibit C

CO-97-07



Judicial Council of California  
Administrative Office of the Courts

303 Second Street, South Tower ♦ San Francisco, CA 94107-1366  
Telephone 415-396-9100 ♦ Fax 415-396-9349 ♦ TDD 415-396-9288

RONALD M. GEORGE  
*Chief Justice of California*  
*Chair of the Judicial Council*

WILLIAM C. VICKREY  
*Administrative Director of the Courts*

DENNIS B. JONES  
*Chief Deputy Director*

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts  
William C. Vickrey  
Administrative Director of the Courts  
Dale Sipes, Assistant Director  
Council and Legal Services Division

DATE: June 24, 1997

SUBJECT: Circulating Order: CO-97-07—Division VII of the Appendix to the  
California Rules of Court—Limits of Imputed Liability for the  
Willful Misconduct of a Minor

**IMMEDIATE ACTION REQUIRED**  
**IF POSSIBLE, FAX REPLY BY 5:00 P.M., JUNE 27, 1997**

Summary

Civil Code section 1714.1(a)<sup>1</sup> imputes liability, for any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another, to the parent or guardian having custody and control of the minor. Under subdivision (b), a parent or guardian having custody and control of a minor is liable for any act of willful misconduct of the minor that results in the defacement of property of another with paint or a similar substance. Under either subdivision (a) or (b), the joint or several liability of the parent or guardian having custody or control shall not exceed \$25,000 for each tort of the minor, *except as provided in subdivision (c)*.

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<sup>1</sup> Attached at p. 8.

Subdivision (c) requires the Judicial Council to compute, adjust, and publish the maximum amounts of liability every two years, on or before January 1, 1997, and on or before January 1 of each odd numbered year thereafter.

The Administrative Office of the Courts has received a letter, dated April 21, 1997, from Mr. Jason Barnhart of the California Department of Finance<sup>2</sup> showing the adjusted amount of maximum liability, as of January 1, 1997, to be \$25,900. This is the first occasion that the Judicial Council has been called on to make an adjustment.

It is recommended that the formula for determining each adjustment, and the current adjustment as well, be published in a new Division VII of the Appendix to the California Rules of Court, in a similar manner as Discretionary Child Support figures are published in Division VI of the Appendix.<sup>3</sup> This will give the adjustments and calculations a permanent place for reference.

### Recommendations

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, by circulating order:

1. Adjust the maximum liability of the parent or guardian having custody and control of a minor for the willful misconduct of a minor, under Civil Code section 1714.1, subdivisions (a) and (b), from \$25,000 to \$25,900, effective January 1, 1997;
2. Direct staff to publish the adjustment in the advance sheets of the *California Official Reports*;
3. Adopt, as division VII of the Appendix to the California Rules of Court, Liability Limits of a Parent or Guardian Having Custody and Control of a Minor for the Torts of the Minor; and
4. Authorize the Administrative Director of the Courts to make future adjustments pursuant to Civil Code section 1714.1, subdivision (c), and to report this action at the following council meeting.

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<sup>2</sup>Attached at p. 9.

<sup>3</sup>See pp. 10-11.

The text of proposed division VII of the Appendix to the California Rules of Court is at page 6.

The text of a proposed statement for publication in the advance sheets of the California Official Reports is at page 7.

**Voting members**

If you approve, please sign one copy of the enclosed circulating order (sign and keep the original copy for your records) and return the order by 5:00 p.m., June 27, if possible, by:

Facsimile (FAX) to 415 396-9388

**AND**

Mail (envelope enclosed with mailed copy)

Please confirm your FAX by telephone to Susan Peterson at 415 396-9322 (CALNET 8 531-9322). If you are unable to reply by June 27, please reply as soon as possible thereafter.

**Advisory members** (mailed copy only)

Please retain this copy for your records.

Attachments

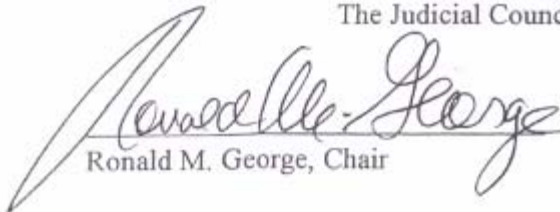


## THE JUDICIAL COUNCIL OF CALIFORNIA

The Judicial Council hereby

1. Adjusts the maximum liability of the parent or guardian having custody and control of a minor for the willful misconduct of a minor, under Civil Code section 1714.1, subdivisions (a) and (b), from \$25,000 to \$25,900, effective January 1, 1997;
2. Directs staff to publish the adjustment in the advance sheets of the *California Official Reports*;
3. Adopts, as division VII of the Appendix to the California Rules of Court, Liability Limits of a Parent or Guardian Having Custody and Control of a Minor for the Torts of the Minor;
4. Authorizes the Administrative Director of the Courts to make future adjustments pursuant to Civil Code section 1714.1, subdivision (c), and to report this action at the following council meeting.

The Judicial Council of California



Ronald M. George, Chair

/s/ Marvin R. Baxter

/s/ Roger W. Boren

/s/ Richard D. Huffman

/s/ Arthur G. Scotland

/s/ Paul Boland

/s/ J. Richard Couzens

Lois Haight

Melinda A. Johnson

/s/ Kathryn D. Todd



\_\_\_\_\_  
/s/  
Albert Dover

\_\_\_\_\_  
/s/  
Brenda Harbin-Forte

\_\_\_\_\_  
Jon M. Mayeda

\_\_\_\_\_  
Risë Jones Pichon

\_\_\_\_\_  
/s/  
Eleanor Provost

\_\_\_\_\_  
John L. Burton

\_\_\_\_\_  
Martha M. Escutia

\_\_\_\_\_  
/s/  
Maurice Evans

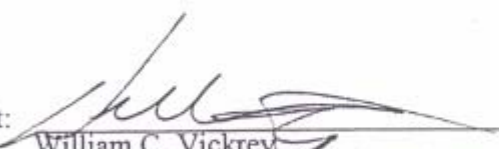
\_\_\_\_\_  
Harvey I. Saferstein

\_\_\_\_\_  
Glenda Veasey

\_\_\_\_\_  
Brian C. Walsh

Date: June 24, 1997

Attest:

  
\_\_\_\_\_  
William C. Vickrey  
Administrative Director of the Courts  
and Secretary of the Judicial Council

Division VII is added to the Appendix to the California Rules of Court, effective January 1, 1997, to read:

**DIVISION VII**  
**Liability Limits of a**  
**Parent or Guardian Having Custody and**  
**Control of a Minor for the Torts of**  
**a Minor**  
**(Civil Code, § 1714.1)**

Adopted by the Judicial Council of California  
Effective January 1, 1997

**1. [Formula]**

Pursuant to Civil Code section 1714.1, the joint and several liability limit of a parent or guardian having custody and control of a minor under subdivisions (a) and (b) for each tort of the minor shall be computed and adjusted as follows:

$$\text{Adjusted limit} = \left[ \frac{\text{Current CCPI—January 1, 1995, CCPI}}{\text{January 1, 1995, CCPI}} + 1 \right] \times \text{January 1, 1995, limit}$$

**2. [Definition]**

“CCPI” means the California Consumer Price Index, as established by the California Department of Industrial Relations.

**3. [January 1, 1997, calculation and adjustment]**

The joint and several liability of a parent or guardian having custody and control of a minor under Civil Code section 1714.1, subdivision (a) or (b), effective January 1, 1997, shall not exceed \$25,900 for each tort. The calculation is as follows:

$$\text{\$25,925} = \left[ \frac{157.1-151.5}{151.5} + 1 \right] \times 25,000.00$$

Under section 1714.1, subdivision (c), the adjusted limit is rounded to the nearest hundred dollars.

**Statement for Publication****Advance Sheets of the  
California Official Reports**

Pursuant to the authority of the Judicial Council under Civil Code section 1714.1(c), the liability of a parent or guardian having custody and control of a minor for the wrongful misconduct of the minor, under subdivisions (a) and (b), is adjusted from \$25,000 to \$25,900 for each tort of the minor, effective January 1, 1997. Future adjustments will be made each odd-numbered year. Current and future adjustments will be found in Division VII of the Appendix to the California Rules of Court.

## Civil Code

### §1714.1. Liability of Parent or Guardian for Torts of Minor.

(a) Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

Subject to the provisions of subdivision (c), the joint and several liability of the parent or guardian having custody and control of a minor under this subdivision shall not exceed twenty-five thousand dollars (\$25,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical, dental and hospital expenses incurred by the injured person, not to exceed twenty-five thousand dollars (\$25,000). The liability imposed by this section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor which results in the defacement of property of another with paint or a similar substance shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, including court costs, and attorney's fees, to the prevailing party, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct, not to exceed twenty-five thousand dollars (\$25,000), except as provided in subdivision (c), for each tort of the minor.

(c) The amounts listed in subdivisions (a) and (b) shall be adjusted every two years by the Judicial Council to reflect any increases in the cost of living in California, as indicated by the annual average of the California Consumer Price Index. The Judicial Council shall round this adjusted amount up or down to the nearest hundred dollars. On or before January 1, 1997, and on or before January 1 of each odd-numbered year thereafter, the Judicial Council shall compute and publish the amount listed in subdivisions (a) and (b), as adjusted according to this subdivision.

(d) The maximum liability imposed by this section is the maximum liability authorized under this section at the time that the act of willful misconduct by a minor was committed.

(e) Nothing in this section shall impose liability on an insurer for a loss caused by the willful act of the insured for purposes of Section 533 of the Insurance Code. An insurer shall not be liable for the conduct imputed to a parent or guardian by this section for any amount in excess of ten thousand dollars (\$10,000). *Leg.H.* 1955 ch. 820, 1965 ch. 407, 1970 ch. 640, 1972 ch. 442, 1974 ch. 340, 1979 ch. 127, 1983 ch. 981, 1994 chs. 568, 909.

*Ref.:* Cal. Fms Pl. & Pr., "Art." "Assault and Battery," "Death and Survival Actions," "Guardianship and Conservatorship (Pt. XII)," "Parent and Child"; W. Cal. Pro., "Pleading" §872; W. Cal. Sum., "Torts" §§1003 et seq.

DEPARTMENT OF FINANCE

51 L STREET  
SACRAMENTO, CA 95814-3706

CO-97-07



April 21, 1997

Ms. Cara Vonk  
Judicial Council of California  
Administrative Office of the Courts  
303 Second Street, South Tower  
San Francisco, CA 94107

Dear Ms. Vonk,

The updated number calculated in accordance with Civil Code section 1714.1 subdivision c is \$25,900.00. Proper escalation procedure divides the difference of the end-of-period number and the beginning-of-period number by the beginning-of-period number. Next add one and multiply by the original number in this case \$25,000.00.

The California Consumer Price Index (CCPI) formula is established by the Department of Industrial Relations (DIR). The Department of Finance, using the DIR formula for the CCPI, calculates the January 1, 1995 CCPI as 151.5, for January 1, 1996 (154.0), and for January 1, 1997 (157.1). The calculation rests on the assumption that the figure of \$25,000.00 originates January 1, 1995 as you stated in our conversation this morning.

$$25,925.00 = \left[ \frac{(157.1 - 151.5)}{151.5} + 1 \right] \times 25,000.00$$

Subdivision c requires the number to be rounded to the nearest one hundred dollars producing \$25,900.00. My phone number is (916) 322-2263 x2423; where I can be reached to answer to any questions. I have included CCPI data tables for purposes of documentation.

Sincerely

A handwritten signature in cursive script, appearing to read "Jason Barnhart".

Jason Barnhart



# DIVISION VI. DISCRETIONARY CHILD SUPPORT (Civil Code, § 4724(b))

Adopted by the Judicial Council of California  
Effective July 1, 1986

## Research Note

Use WESTLAW® to find cases citing this guideline. In addition, use WESTLAW to search for specific terms or to update this guideline; see the CA-RULES and CA-ORDERS SCOPE screens for further information.

Amendments to this guideline are published, as received, in the California Reporter 2d advance sheets.

1. [Formula] Pursuant to Civil Code section 4724(b), a guideline for discretionary child support awards above the mandatory minimum of the Agnos Child Support Standards Act may be determined as follows:

$$CS = TCS = .15 (TCS) \\ TCS = (HN - (H\%)(TN))$$

## 2. [Definitions]

(a) The components of the formula are:

CS = child support range  
TCS = tentative child support  
K = adjustment factor for different levels of income  
H% = percentage of time high earner has children (use decimal, e.g., 20% = .20)  
HN = high earner's net monthly income  
TN = total net monthly income of parties

(b) To compute net income, see subdivisions 6 and 7.

(c) K changes as combined income increases as follows:

Total Net Income Per Month	K
\$0-1,667	K = .26
\$1,668-4,999	K = .2 + 100/TN
\$5,000-10,000	K = .16 + 300/TN
Over \$10,000	K = .12 + 700/TN

(d) If the child support range is negative, the custodial parent pays.

(e) For more than one child, multiply TCS by:

2 children	1.5
3 children	2
4 children	2.25
5 children	2.5
6 children	2.625
7 children	2.75

3. [Santa Clara guidelines] Any schedule based on the child support guidelines in effect in Santa Clara County on July 1, 1986, should yield the same tentative child support obtained by the formula.

4. [Use of Agnos minimum] In the event the amount of support calculated by this formula is less than the minimum amount mandated by the Agnos Child Support Standards Act, the amount mandated by that act shall be used.

5. [Factors considered] The formula is based on studies of the costs of raising children. The factors considered are the combined net income of the parties, the amount required to support the child, and the time the child spends with each parent.

6. [Net income defined] Net monthly income is determined by making appropriate deductions and adjustments to gross income, as follows:

(a) The following deductions shall be made:

(1) Social Security (FICA) and State Disability Insurance (SDI) actually deducted from salary or paid by a self-employed person; these deductions should be averaged on an annual basis.

(2) Federal and state income tax withholding, or estimated tax payments, to the extent they represent actual or potential income tax liability.

(3) Mandatory retirement contributions in lieu of Social Security.

(b) The following deductions are within the court's discretion:

(1) Mandatory retirement contributions in addition to Social Security. (Voluntary retirement contributions should not normally be deducted from gross income.)

(2) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(c) The following adjustments to gross income are within the court's discretion:

(1) Employee benefits or self-employment benefits may be included in net income, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(2) Earning capacity may be considered in place of actual income.

(3) The court may consider, to the extent permitted by law, the income earned by new partners of either parent and the expenses related to the new partner or to other children of that parent.

7. [Income tax consequences] The formula does not consider that support payments can, and often do, result in changes in income taxes paid. The court may consider these and any other factors reflecting the true tax status of either party.

8. [Additional support amounts: expenses related to child support]

(a) Child care costs related to employment or reasonably necessary education or training for employment skills should be shared in accordance with the net income of the parties.

(b) Travel expenses for visitation should be shared in accordance with the net income of the parties, unless this creates an unreasonable hardship on one parent.

(c) Health care and health insurance costs for children should be shared in accordance with the net income of the parties, or, when appropriate, may be credited to the payor's obligation for child support.

9. [Special needs] The court may order additional support amounts subject to the paying parent's ability to pay, for the special educational, medical, or other needs of a child.

10. [Additional costs] When appropriate, the court should consider the added cost of maintaining two households. The court should also consider the added cost on the custodial parent resulting from having work done by a paid third party that is normally done by the parents in a two-parent household.

11. [Age increase factor] The court should consider the age of the child in relation to the amount of support awarded (see the Age Increase Factor Table (California Rules of Court, appendix, division V)).

12. [Seasonal or fluctuating income] The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.